

**SUBMITTAL TO THE FLOOD CONTROL AND
WATER CONSERVATION DISTRICT BOARD
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

913B



FROM: General Manager-Chief Engineer

SUBMITTAL DATE:
November 22, 2011

SUBJECT: Calimesa-Singleton Canyon Debris Basin
Calimesa-Singleton Road Storm Drain
Project Nos. 5-0-00161 and 5-0-00162 (Tract 26811)
Cooperative Agreement

RECOMMENDED MOTION:

1. Approve the Cooperative Agreement between the District, City of Calimesa and Singleton Road, LLC, an Oregon limited liability company, and
2. Authorize the Chairman to execute the Agreement documents on behalf of the District.

BACKGROUND:

The Agreement sets forth the terms and conditions by which certain flood control and drainage facilities, required as a condition for approval of Tract No. 26811, are to be constructed by the Developer and inspected, operated and maintained by the District and City of Calimesa.

Continued on Page 2

TLC: blj

Warren D. Williams
WARREN D. WILLIAMS
General Manager-Chief Engineer

FINANCIAL DATA	Current F.Y. District Cost:	N/A	In Current Year Budget:	N/A
	Current F.Y. County Cost:	N/A	Budget Adjustment:	N/A
	Annual Net District Cost:	N/A	For Fiscal Year:	N/A

SOURCE OF FUNDS: N/A	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE
Michael R. Shetler
BY: **Michael R. Shetler**

County Executive Office Signature

MINUTES OF THE FLOOD CONTROL AND WATER CONSERVATION DISTRICT

On motion of Supervisor Buster, seconded by Supervisor Ashley and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone and Ashley
Nays: None
Absent: Benoit
Date: November 22, 2011 10:00 AM
xc: Flood

Kecia Harper-Ihem
Clerk of the Board
By: *Kecia Harper-Ihem*
Deputy

Prev. Agn. Ref.: | **District:** 5th | **Agenda Number:** 11.2

FORM APPROVED COUNTY COUNSEL
 BY: *NEAL R. KIPNIS*
 DATE: *11/22/11*
 Departmental Concurrence

**FLOOD CONTROL AND WATER CONSERVATION DISTRICT BOARD SUBMITTAL
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

SUBJECT: Calimesa-Singleton Canyon Debris Basin
Calimesa-Singleton Road Storm Drain
Project Nos. 5-0-00161 and 5-0-00162 (Tract 26811)
Cooperative Agreement

SUBMITTAL DATE: November 22, 2011

Page 2

BACKGROUND:

The Agreement is necessary to formalize the transfer of necessary rights of way and to provide for District construction inspection of the referenced facilities.

Upon completion of the facilities' construction, the District will assume ownership, operation and maintenance of the certain flood control and drainage facilities. The City of Calimesa will assume ownership, operation and maintenance of appurtenances located within their easements or rights of way.

The Developer is funding all construction and construction inspection costs. Future operation and maintenance costs will accrue to the District.

County Counsel has approved the Agreement as to legal form. The City of Calimesa and the Developer have executed the Agreement.

TLC:blj
P8/140633

to Riverside County Clerk of the Board, Stop 1010
Post Office Box 1147, Riverside, Ca 92502-1147

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Thank you.

COOPERATIVE AGREEMENT
CALIMESA-SINGLETON CANYON DEBRIS BASIN
CALIMESA-SINGLETON ROAD STORM DRAIN
Project No. 5-0-00161
Project No. 5-0-00162
(Tract No. 26811)

The RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT, hereinafter called "DISTRICT", the CITY OF CALIMESA, hereinafter called "CITY", and SINGLETON ROAD, LLC, an Oregon limited liability company, hereinafter called "DEVELOPER", hereby agree as follows:

RECITALS

A. DEVELOPER has submitted for approval Tract No. 26811 in the city of Calimesa and as a condition for approval DEVELOPER must construct certain flood control and drainage facilities in order to provide flood protection and drainage for DEVELOPER'S planned development; and

B. The required flood control facilities include construction of (i) approximately 1,300 lineal feet of underground storm drain system, hereinafter called "SINGLETON ROAD STORM DRAIN", as shown in concept in red on Exhibit "A" attached hereto and made a part hereof, and (ii) an earthen debris basin and associated inlet and outlet structures hereinafter called "SINGLETON CANYON DEBRIS BASIN", as shown in concept in green on Exhibit "A". Together, SINGLETON ROAD STORM DRAIN and SINGLETON CANYON DEBRIS BASIN are hereinafter called "DISTRICT DRAINAGE FACILITIES"; and

C. Associated with the construction of DISTRICT DRAINAGE FACILITIES is the construction of certain catch basins, laterals, connector pipes, a certain outlet structure, and a water quality detention basin located within CITY held easements or rights of way, hereinafter called "APPURTENANCES". Together, DISTRICT DRAINAGE FACILITIES and APPURTENANCES are hereinafter called "PROJECT"; and

1 D. DEVELOPER and CITY desire DISTRICT to accept ownership and
2 responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITIES.
3 Therefore, DISTRICT must review and approve DEVELOPER'S plans and specifications and
4 subsequently inspect the construction of DISTRICT DRAINAGE FACILITIES; and

5 E. DEVELOPER and DISTRICT desire CITY to accept ownership and
6 responsibility for the operation and maintenance of APPURTENANCES. Therefore, CITY
7 must review and approve DEVELOPER'S plans and specifications and subsequently inspect the
8 construction of APPURTENANCES; and

9 F. CITY is willing to (i) review and approve plans and specifications
10 prepared by DEVELOPER for PROJECT, (ii) inspect the construction of APPURTENANCES,
11 (iii) accept and hold faithful performance and payment bonds submitted by DEVELOPER for
12 DISTRICT DRAINAGE FACILITIES, (iv) grant DISTRICT the right to inspect, operate and
13 maintain DISTRICT DRAINAGE FACILITIES within CITY rights of way, (v) consent to the
14 recordation and conveyance of Irrevocable Offer(s) of Dedication furnished by DEVELOPER
15 as provided herein, and (vi) accept ownership and responsibility for the operation and
16 maintenance of APPURTENANCES, provided PROJECT is constructed in accordance with
17 plans and specifications approved by DISTRICT and CITY.
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19 NOW, THEREFORE, the parties hereto mutually agree as follows:
20

21 **SECTION I**

22 DEVELOPER shall:

23 1. Prepare PROJECT plans and specifications, hereinafter called
24 "IMPROVEMENT PLANS", in accordance with DISTRICT and CITY standards, and submit to
25 DISTRICT and CITY for their review and approval.
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1 2. Continue to pay DISTRICT, within thirty (30) days after receipt of periodic
2 billings from DISTRICT, any and all such amounts as are deemed reasonably necessary by
3 DISTRICT to cover DISTRICT'S costs associated with (i) the review of IMPROVEMENT
4 PLANS, (ii) the review and approval of right of way and conveyance documents, and (iii) the
5 processing and administration of this Agreement.

6 3. Deposit with DISTRICT (Attention: Business Office – Accounts
7 Receivable), at the time of providing written notice to DISTRICT of the start of DISTRICT
8 DRAINAGE FACILITIES construction as set forth in Section I.8. herein, the estimated cost of
9 providing construction inspection for DISTRICT DRAINAGE FACILITIES, in an amount as
10 determined and approved by DISTRICT in accordance with Ordinance Nos. 671 and 749 of the
11 County of Riverside, including any amendments thereto, based upon the bonded value of
12 DISTRICT DRAINAGE FACILITIES.

13 4. [This Section Intentionally Left Blank.]

14 5. Secure, at its sole cost and expense, all necessary licenses, agreements,
15 permits and rights of entry as may be needed for the construction, inspection, operation and
16 maintenance of DISTRICT DRAINAGE FACILITIES. DEVELOPER shall furnish
17 DISTRICT, at the time of providing written notice to DISTRICT of the start of construction as
18 set forth in Section I.8., or not less than twenty (20) days prior to recordation of the final maps
19 for Tract No. 26811 or any phase thereof, whichever occurs first, with sufficient evidence of
20 DEVELOPER having secured such necessary licenses, agreements, permits and rights of entry,
21 as determined and approved by DISTRICT.

22 6. Furnish DISTRICT with copies of all permits, approvals or agreements
23 required by any Federal or State resource and/or regulatory agency for the construction,
24 operation and maintenance of DISTRICT DRAINAGE FACILITIES. Such documents include
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1 but are not limited to those issued by the U.S. Army Corps of Engineers, California Regional
2 Water Quality Control Board, California State Department of Fish and Game and State Water
3 Resources Control Board.

4 7. Provide CITY, at the time of providing written notice to DISTRICT of the
5 start of construction as set forth in Section I.8., or not less than twenty (20) days prior to
6 recordation of the final maps for Tract No. 26811 or any phase thereof, whichever occurs first,
7 with faithful performance and payment bonds, each in the amount of one hundred percent
8 (100%) of the estimated cost for construction of DISTRICT DRAINAGE FACILITIES as
9 determined by DISTRICT. The surety, amount and form of the bonds shall be subject to the
10 approval of DISTRICT and CITY. The bonds shall remain in full force and effect until
11 DISTRICT DRAINAGE FACILITIES are accepted by DISTRICT as complete; at which time
12 the bond amount may be reduced to ten percent (10%) for a period of one year to guarantee
13 against any defective work, labor or materials.
14

15 8. Notify DISTRICT in writing (Attention: Administrative Services Section),
16 at least twenty (20) days prior to the start of construction of DISTRICT DRAINAGE
17 FACILITIES. Construction shall not begin on any element of DISTRICT DRAINAGE
18 FACILITIES, for any reason whatsoever, until DISTRICT has issued to DEVELOPER a written
19 Notice to Proceed authorizing DEVELOPER to commence construction of DISTRICT
20 DRAINAGE FACILITIES.
21

22 9. Grant DISTRICT, by execution of this Agreement, the right to enter upon
23 DEVELOPER'S property where necessary and convenient for the purpose of gaining access to,
24 and performing inspection service for, the construction of DISTRICT DRAINAGE
25 FACILITIES as set forth herein.
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1 10. Obtain and provide DISTRICT, at the time of providing written notice to
2 DISTRICT of the start of construction of DISTRICT DRAINAGE FACILITIES as set forth in
3 Section I.8., or not less than twenty (20) days prior to the recordation of the final maps for Tract
4 No. 26811 or any phase thereof, whichever occurs first, with duly executed Irrevocable
5 Offers(s) of Dedication to the public for flood control and drainage purposes, including ingress
6 and egress, for the rights of way deemed necessary by DISTRICT for the construction,
7 inspection, operation and maintenance of DISTRICT DRAINAGE FACILITIES, as shown in
8 concept in red and in green on Exhibit "A" attached hereto and made a part hereof. The
9 Irrevocable Offer(s) of Dedication shall be in a form approved by DISTRICT and shall be
10 executed by all legal and equitable owners of the property described in the offer(s).
11

12 11. Furnish DISTRICT, when submitting the Irrevocable Offer(s) of
13 Dedication as set forth in Section I.10., with Preliminary Reports on Title dated not more than
14 thirty (30) days prior to date of submission of all the property described in the Irrevocable
15 Offer(s) of Dedication.
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17 12. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
18 the start of construction as set forth in Section I.8., with a complete list of all contractors and
19 subcontractors to be performing work on DISTRICT DRAINAGE FACILITIES, including the
20 corresponding license number and license classification of each. At such time, DEVELOPER
21 shall further identify in writing its designated superintendent for DISTRICT DRAINAGE
22 FACILITIES construction.
23

24 13. Furnish DISTRICT, at the time of providing written notice to DISTRICT of
25 the start of construction as set forth in Section I.8., a construction schedule which shall show the
26 order and dates in which the DEVELOPER or DEVELOPER'S contractor proposes to carry on
27 the various parts of work, including estimated start and completion dates. As construction of
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1 DISTRICT DRAINAGE FACILITIES progresses, DEVELOPER shall update said construction
2 schedule as requested by DISTRICT.

3 14. Furnish DISTRICT with final mylar IMPROVEMENT PLANS and assign
4 their ownership to DISTRICT prior to the start of DISTRICT DRAINAGE FACILITIES
5 construction.

6 15. Not permit any change to or modification of IMPROVEMENT PLANS
7 without the prior written permission and consent of DISTRICT.

8 16. Comply with all Cal/OSHA safety regulations including regulations
9 concerning confined space and maintain a safe working environment for DEVELOPER and
10 DISTRICT employees on the site.

11 17. Furnish DISTRICT and CITY, at the time of providing written notice to
12 DISTRICT of the start of construction as set forth in Section I.8., a confined space entry
13 procedure specific to DISTRICT DRAINAGE FACILITIES and APPURTENANCES. The
14 procedure shall comply with requirements contained in California Code of Regulations, Title 8
15 Section 5158, Other Confined Space Operations, Section 5157, Permit Required Confined
16 Space and District Confined Space Procedures, SOM-18. The procedure shall be reviewed and
17 approved by DISTRICT and CITY prior to the issuance of a Notice to Proceed.

18 18. During the construction period of PROJECT, provide Workers'
19 Compensation Insurance in an amount required by law. A certificate of said insurance policy
20 shall be provided to DISTRICT and CITY at the time of providing written notice pursuant to
21 Section I.8.

22 19. Commencing on the date notice is given pursuant to Section I.8. and
23 continuing until DISTRICT accepts ownership and responsibility for DISTRICT DRAINAGE
24 FACILITIES and CITY accepts ownership and responsibility for APPURTENANCES:
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1 (a) Provide and maintain or cause its contractor(s) to provide and
2 maintain comprehensive liability insurance coverage which shall
3 protect DEVELOPER from claim from damages for personal injury,
4 including accidental and wrongful death, as well as from claims for
5 property damage which may arise from DEVELOPER'S construction
6 of PROJECT or the performance of its obligations hereunder,
7 whether such construction or performance be by DEVELOPER, by
8 any of its contractors, subcontractors, or by anyone employed
9 directly or indirectly by any of them. Such insurance shall name
10 DISTRICT, County of Riverside and CITY as additional insureds
11 with respect to this Agreement and the obligations of DEVELOPER
12 hereunder. Such insurance shall provide for limits of not less than
13 two million dollars (\$2,000,000) per occurrence.

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15 (b) Cause its insurance carrier(s) or its contractor's insurance carrier(s),
16 who shall be authorized by the California Department of Insurance to
17 transact the business of insurance in the State of California, to
18 furnish DISTRICT and CITY at the time of providing written notice
19 to DISTRICT of the start of construction as set forth in Section I.8.,
20 with certificate(s) of insurance and applicable policy endorsements
21 showing that such insurance is in full force and effect and that
22 DISTRICT, County of Riverside and CITY are named as additional
23 insureds with respect to this Agreement and the obligations of
24 DEVELOPER hereunder. Further, said certificate(s) shall state that
25 the issuing company shall give DISTRICT and CITY sixty (60) days
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1 written notice in the event of any cancellation, termination, non-
2 renewal or reduction in coverage of the policies evidenced by the
3 certificate(s). In the event of any such cancellation, termination,
4 non-renewal or reduction in coverage, DEVELOPER shall,
5 forthwith, secure replacement insurance meeting the provisions of
6 this paragraph.

7 Failure to maintain the insurance required by this paragraph shall be
8 deemed a material breach of this Agreement and shall authorize and constitute authority for
9 DISTRICT, at its sole discretion, to proceed to perform the remaining work pursuant to Section
10 IV.3.
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12 20. Construct, or cause to be constructed, PROJECT at DEVELOPER'S sole
13 cost and expense in accordance with DISTRICT and CITY approved IMPROVEMENT
14 PLANS.
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16 21. Within two (2) weeks of completing PROJECT construction, provide
17 DISTRICT with written notice (Attention: Contract Administration Section) that PROJECT
18 construction is substantially complete and requesting that DISTRICT conduct a final inspection
19 of DISTRICT DRAINAGE FACILITIES.

20 22. Upon completion of PROJECT construction, and upon acceptance by CITY
21 of all street rights of way deemed necessary by DISTRICT and CITY for the operation and
22 maintenance of PROJECT, but prior to DISTRICT acceptance of DISTRICT DRAINAGE
23 FACILITIES for ownership, operation and maintenance, convey, or cause to be conveyed to
24 DISTRICT fee ownership, in a form approved by DISTRICT, for the rights of way as shown in
25 concept in red and green on Exhibit "A".
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1 23. At the time of recordation of the conveyance document(s) as set forth in
2 Section I.22., furnish DISTRICT with policies of title insurance, each in the amount of not less
3 than one hundred percent (100%) of the estimated fee value, as determined by DISTRICT, for
4 each fee parcel to be conveyed to DISTRICT, guaranteeing DISTRICT'S interest in said
5 property as being free and clear of all liens, encumbrances, assessments, easements, taxes and
6 leases (recorded or unrecorded), except those which, in the sole discretion of DISTRICT, are
7 deemed acceptable.
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9 24. [This Section Intentionally Left Blank.]

10 25. Accept ownership and sole responsibility for the operation and maintenance
11 of PROJECT until such time as DISTRICT accepts ownership and responsibility for operation
12 and maintenance of DISTRICT DRAINAGE FACILITIES and CITY accepts ownership and
13 responsibility for operation and maintenance of APPURTENANCES. Further, it is mutually
14 understood by the parties hereto that prior to DISTRICT acceptance of ownership and
15 responsibility for the operation and maintenance of DISTRICT DRAINAGE FACILITIES,
16 PROJECT shall be in a satisfactorily maintained condition as solely determined by DISTRICT.
17

18 26. Pay, if suit is brought upon this Agreement or any bond guaranteeing the
19 completion of DISTRICT DRAINAGE FACILITIES, all costs and reasonable expenses and
20 fees, including reasonable attorneys' fees, and acknowledge that, upon entry of judgment, all
21 such costs, expenses and fees shall be computed as costs and included in any judgment
22 rendered.
23

24 27. Upon completion of construction of PROJECT, but prior to DISTRICT
25 acceptance of DISTRICT DRAINAGE FACILITIES for ownership, operation and maintenance,
26 DEVELOPER'S civil engineer of record or construction civil engineer of record, duly registered
27 in the State of California, shall provide DISTRICT a redlined "RECORD DRAWINGS" of
28

1 IMPROVEMENT PLANS. After DISTRICT approval of the redlined "RECORD
2 DRAWINGS", DEVELOPER'S engineer shall schedule with DISTRICT a time to transfer the
3 redlined changes onto DISTRICT'S original mylars at DISTRICT'S office, after which the
4 engineer shall review, stamp and sign the original IMPROVEMENT PLANS "RECORD
5 DRAWINGS".

6 28. Ensure that all work performed pursuant to this Agreement by
7 DEVELOPER, its agents or contractors is done in accordance with all applicable laws and
8 regulations, including but not limited to all applicable provisions of the Labor Code, Business
9 and Professions Code, and Water Code. DEVELOPER shall be solely responsible for all costs
10 associated with compliance with applicable laws and regulations.
11

12 SECTION II

13 DISTRICT shall:

14 1. Review and approve IMPROVEMENT PLANS prior to the start of
15 DISTRICT DRAINAGE FACILITIES construction.

16 2. Provide CITY an opportunity to review and approve IMPROVEMENT
17 PLANS prior to DISTRICT'S final approval.

18 3. Upon execution of this Agreement, record or cause to be recorded, a copy
19 of this Agreement in the Official Records of the Riverside County Recorder.
20

21 4. Record or cause to be recorded, the Irrevocable Offer(s) of Dedication
22 provided by DEVELOPER pursuant to Section I.10.
23

24 5. Inspect DISTRICT DRAINAGE FACILITIES construction.

25 6. Keep an accurate accounting of all DISTRICT costs associated with the
26 review and approval of IMPROVEMENT PLANS, the review and approval of right of way and
27 conveyance documents and the processing and administration of this Agreement.
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1 7. Keep an accurate accounting of all DISTRICT construction inspection
2 costs, and within forty-five (45) days after DISTRICT acceptance of DISTRICT DRAINAGE
3 FACILITIES as being complete, submit a final cost statement to DEVELOPER. If the deposit
4 as set forth in Section I.3. exceeds such costs, DISTRICT shall reimburse DEVELOPER the
5 excess amount within sixty (60) days after DISTRICT acceptance of DISTRICT DRAINAGE
6 FACILITIES as being complete. If at any time the costs exceed the deposit or are anticipated
7 by DISTRICT to exceed the deposit, DEVELOPER shall pay such additional amount(s), as
8 deemed reasonably necessary by DISTRICT to complete inspection of DISTRICT DRAINAGE
9 FACILITIES, within thirty (30) days after receipt of billing from DISTRICT.
10

11 8. Accept ownership and sole responsibility for the operation and maintenance
12 of DISTRICT DRAINAGE FACILITIES upon (i) DISTRICT acceptance of PROJECT
13 construction as being complete, (ii) recordation of all conveyance documents described in
14 Section I.22., and (iii) acceptance by CITY of all necessary street rights of way as deemed
15 necessary by DISTRICT and CITY for the operation and maintenance of PROJECT.
16

17 9. Provide CITY with a reproducible duplicate copy of "RECORD
18 DRAWINGS" IMPROVEMENT PLANS upon DISTRICT acceptance of DISTRICT
19 DRAINAGE FACILITIES as being complete.
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SECTION III

21 CITY shall:

22 1. Review and approve IMPROVEMENT PLANS prior to the start of
23 PROJECT construction.
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25 2. Accept the CITY and DISTRICT approved faithful performance and
26 payment bonds submitted by DEVELOPER as set forth in Section I.7., and hold said bonds as
27 provided herein.
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3. Inspect construction of APPURTENANCES.

4. Consent, by execution of this Agreement, to the recording of any Irrevocable Offer(s) of Dedication furnished by DEVELOPER pursuant to this Agreement.

5. As requested by DISTRICT, accept the Irrevocable Offer(s) of Dedication as set forth herein, and any other outstanding offers of dedication necessary for the construction, inspection, operation and maintenance of DISTRICT DRAINAGE FACILITIES, and, convey sufficient rights of way to DISTRICT to allow DISTRICT to construct, inspect, operate and maintain DISTRICT DRAINAGE FACILITIES.

6. Grant DISTRICT, by execution of this Agreement, the right to construct, inspect, operate and maintain DISTRICT DRAINAGE FACILITIES within CITY rights of way.

7. Accept ownership and sole responsibility for the operation and maintenance of APPURTENANCES upon DISTRICT acceptance of DISTRICT DRAINAGE FACILITIES as being complete.

SECTION IV

It is further mutually agreed:

1. All work involved with DISTRICT DRAINAGE FACILITIES shall be inspected by DISTRICT and shall not be deemed complete until approved and accepted in writing as complete by DISTRICT.

2. CITY and DEVELOPER personnel may observe and inspect all work being done on DISTRICT DRAINAGE FACILITIES, but shall provide any comments to DISTRICT personnel who shall be solely responsible for all quality control communications with the DEVELOPER'S contractor(s) during the construction of DISTRICT DRAINAGE FACILITIES.

3. DEVELOPER shall complete construction of DISTRICT DRAINAGE FACILITIES within twelve (12) consecutive months after execution of this Agreement and

1 within ninety (90) consecutive calendar days after commencing work on DISTRICT
2 DRAINAGE FACILITIES. It is expressly understood that since time is of the essence in this
3 Agreement, failure of DEVELOPER to perform the work within the agreed upon time shall
4 constitute authority for DISTRICT to perform the remaining work and require DEVELOPER'S
5 surety to pay to CITY the penal sum of any and all bonds. In which case, CITY shall
6 subsequently reimburse DISTRICT for DISTRICT costs incurred.

7 4. [This Section Intentionally Left Blank.]

8 5. DISTRICT shall endeavor to issue DEVELOPER a Notice to Proceed
9 within twenty (20) days of receipt of DEVELOPER'S complete written notice as set forth in
10 Section I.8.; however, DISTRICT'S construction inspection staff is limited and, therefore, the
11 issuance of a Notice to Proceed is subject to staff availability.
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13 In the event DEVELOPER wishes to expedite issuance of a Notice to
14 Proceed, DEVELOPER may elect to furnish an independent qualified construction inspector at
15 DEVELOPER'S sole cost and expense. DEVELOPER shall furnish appropriate documentation
16 of the individual's credentials and experience to DISTRICT for review and, if appropriate,
17 approval. DISTRICT shall review the individual's qualifications and experience and, upon
18 approval thereof, said individual, hereinafter called "DEPUTY INSPECTOR", shall be
19 authorized to act on DISTRICT'S behalf on all DISTRICT DRAINAGE FACILITIES
20 construction and quality control matters. If DEVELOPER'S initial construction inspection
21 deposit furnished pursuant to Section I.3. exceeds ten thousand dollars (\$10,000), DISTRICT
22 shall refund to DEVELOPER up to eighty percent (80%) of DEVELOPER'S initial inspection
23 deposit within forty-five (45) days of DISTRICT'S approval of DEPUTY INSPECTOR;
24 however, a minimum balance of ten thousand dollars (\$10,000) shall be retained on account.
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1 6. DISTRICT DRAINAGE FACILITIES construction work shall be on a five
2 (5) day, forty (40) hour work week with no work on Saturdays, Sundays or DISTRICT
3 designated legal holidays, unless otherwise approved in writing by DISTRICT. If
4 DEVELOPER feels it is necessary to work more than the normal forty (40) hour work week or
5 on holidays, DEVELOPER shall make a written request for permission from DISTRICT to
6 work the additional hours. The request shall be submitted to DISTRICT at least seventy-two
7 (72) hours prior to the requested additional work hours and state the reasons for the overtime
8 and the specific time frames required. The decision of granting permission for overtime work
9 shall be made by DISTRICT at its sole discretion and shall be final. If permission is granted by
10 DISTRICT, DEVELOPER will be charged the cost incurred at the overtime rates for additional
11 inspection time required in connection with the overtime work in accordance with Ordinance
12 Nos. 671 and 749, including any amendments thereto, of the County of Riverside.

14 7. DEVELOPER shall indemnify and hold harmless DISTRICT, County of
15 Riverside and CITY (including their agencies, districts, special districts and departments, their
16 respective directors, officers, Board of Supervisors, elected and appointed officials, employees,
17 agents and representatives) from any liability, claim, damage, proceeding or action, present or
18 future, based upon, arising out of or in any way relating to DEVELOPER'S (including its
19 officers, employees, subcontractors and agents) actual or alleged acts or omissions related to this
20 Agreement, performance under this Agreement, or failure to comply with the requirements of
21 this Agreement, including but not limited to: (a) property damage; (b) bodily injury or death; (c)
22 liability or damage pursuant to Article I, Section 19 of the California Constitution, the Fifth
23 Amendment of the United States Constitution or any other law, ordinance or regulation caused
24 by the diversion of waters from the natural drainage patterns or the discharge of drainage within
25 or from PROJECT; or (d) any other element of any kind or nature whatsoever.

1 DEVELOPER shall defend, at its sole expense, including all costs and fees
2 (including but not limited to attorney fees, cost of investigation, defense and settlements or
3 awards), DISTRICT, County of Riverside and CITY (including their agencies, districts, special
4 districts and departments, their respective directors, officers, Board of Supervisors, elected and
5 appointed officials, employees, agents and representatives) in any claim, proceeding or action
6 for which indemnification is required.

7
8 With respect to any of DEVELOPER'S indemnification requirements,
9 DEVELOPER shall, at its sole cost, have the right to use counsel of their own choice and shall
10 have the right to adjust, settle, or compromise any such claim, proceeding or action without the
11 prior consent of DISTRICT, County of Riverside and CITY; provided, however, that any such
12 adjustment, settlement or compromise in no manner whatsoever limits or circumscribes
13 DEVELOPER'S indemnification obligations to DISTRICT, County of Riverside or CITY.

14 DEVELOPER'S indemnification obligations shall be satisfied when
15 DEVELOPER has provided to DISTRICT and CITY the appropriate form of dismissal (or
16 similar document) relieving DISTRICT, County of Riverside or CITY from any liability for the
17 claim, proceeding or action involved.
18

19 The specified insurance limits required in this Agreement shall in no way
20 limit or circumscribe DEVELOPER'S obligations to indemnify and hold harmless DISTRICT,
21 County of Riverside and CITY from third party claims.

22 In the event there is conflict between this section and California Civil Code
23 Section 2782, this section shall be interpreted to comply with Civil Code Section 2782. Such
24 interpretation shall not relieve DEVELOPER from indemnifying DISTRICT, County of
25 Riverside or CITY to the fullest extent allowed by law.
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1 10. Any waiver by DISTRICT or by CITY of any breach of any one or more
 2 of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other
 3 breach of the same or of any other term hereof. Failure on the part of DISTRICT or CITY to
 4 require exact, full and complete compliance with any terms of this Agreement shall not be
 5 construed as in any manner changing the terms hereof, or stopping DISTRICT or CITY from
 6 enforcement hereof.

7 11. This Agreement is to be construed in accordance with the laws of the State
 8 of California.

9 12. Any and all notices sent or required to be sent to the parties of this
 10 Agreement will be mailed by first class mail, postage prepaid, to the following addresses:

12 RIVERSIDE COUNTY FLOOD CONTROL
 AND WATER CONSERVATION DISTRICT
 13 1995 Market Street
 Riverside, CA 92501

CITY OF CALIMESA
 908 Park Avenue
 Calimesa, CA 92320
 Attn: Mr. Johnny Ghazal
 Public Works

14
 15 SINGLETON ROAD, LLC
 Post Office Box 10638
 16 Eugene, OR 97440
 Attn: Bill Bernards

17 13. Any action at law or in equity brought by any of the parties hereto for the
 18 purpose of enforcing a right or rights provided for by the Agreement, shall be tried in a court of
 19 competent jurisdiction in the County of Riverside, State of California, and the parties hereto
 20 waive all provisions of law providing for a change of venue in such proceedings to any other
 21 county.
 22

23 14. This Agreement is the result of negotiations between the parties hereto, and
 24 the advice and assistance of their respective counsel. The fact that this Agreement was prepared
 25 as a matter of convenience by DISTRICT shall have no import or significance. Any uncertainty
 26
 27
 28

1 or ambiguity in this Agreement shall not be construed against DISTRICT because DISTRICT
2 prepared this Agreement in its final form.

3 15. The rights and obligations of DEVELOPER shall inure to and be binding
4 upon all heirs, successors and assignees.

5 16. DEVELOPER shall not assign or otherwise transfer any of its rights, duties
6 or obligations hereunder to any person or entity without the written consent of the other parties
7 hereto being first obtained. In the event of any such transfer or assignment, DEVELOPER
8 expressly understands and agrees that it shall remain liable with respect to any and all of the
9 obligations and duties contained in this Agreement.
10

11 17. The individual(s) executing this Agreement on behalf of DEVELOPER
12 hereby certify that they have the authority within their respective company(ies) to enter into and
13 execute this Agreement, and have been authorized to do so by any and all boards of directors,
14 legal counsel, and or any other board, committee or other entity within their respective
15 company(ies) which have the authority to authorize or deny entering this Agreement.
16

17 18. This Agreement is intended by the parties hereto as a final expression of
18 their understanding with respect to the subject matter hereof and as a complete and exclusive
19 statement of the terms and conditions thereof and supersedes any and all prior and
20 contemporaneous agreements and understandings, oral or written, in connection therewith. This
21 Agreement may be changed or modified only upon the written consent of the parties hereto.
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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

NOV 22 2011

(to be filled in by Clerk of the Board)

RECOMMENDED FOR APPROVAL: RIVERSIDE COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT
By Warren D. Williams By Marion Ashley
WARREN D. WILLIAMS MARION ASHLEY, Chairman
General Manager-Chief Engineer Riverside County Flood Control and Water Conservation District Board of Supervisors

ATTEST:

KECIA HARPER-IHEM
Clerk of the Board

By Kecia Harper-Ihem
Deputy

(SEAL)

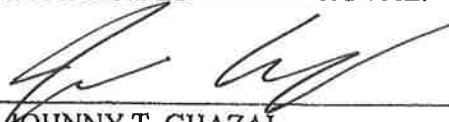
APPROVED AS TO FORM:

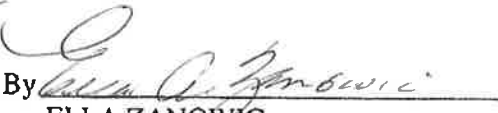
PAMELA J. WALLS
County Counsel

By Neal Kipnis
NEAL KIPNIS
Deputy County Counsel

Cooperative Agreement – Calimesa-Singleton Road Debris Basin
and Storm Drain Tract 26811
TLC:blj
9/7/11

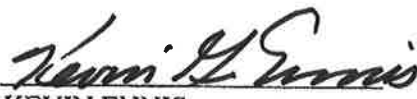
RECOMMENDED FOR APPROVAL: CITY OF CALIMESA

By 
JOHNNY T. GHAZAL
City Engineer


By 
ELLA ZANOWIC
Mayor

By 
RANDY ANSTINE
City Manager

APPROVED AS TO FORM:

By 
KEVIN ENNIS
City Attorney

ATTEST:

By 
DARLENE GERDES
City Clerk

(SEAL)

Cooperative Agreement – Calimesa-Singleton Road Debris Basin
and Storm Drain Tract 26811
TLC:bjj
11/2/11

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SINGLETON ROAD, LLC
An Oregon limited liability company

By: 
BILL BERNARDS
Manager

(NOTARY)

Cooperative Agreement – Calimesa-Singleton Road Debris Basin
and Storm Drain Tract 26811
TLC:blj
11/2/11

State of OREGON)

County of LANE)

This instrument was acknowledged before me on November 14, 2011 by
William J. Bernards as MANAGER of
Singlefox Road LLC.

Gloria M. Vaughn

Notary Public - State of Oregon

My Commission Expires 11/2/2012



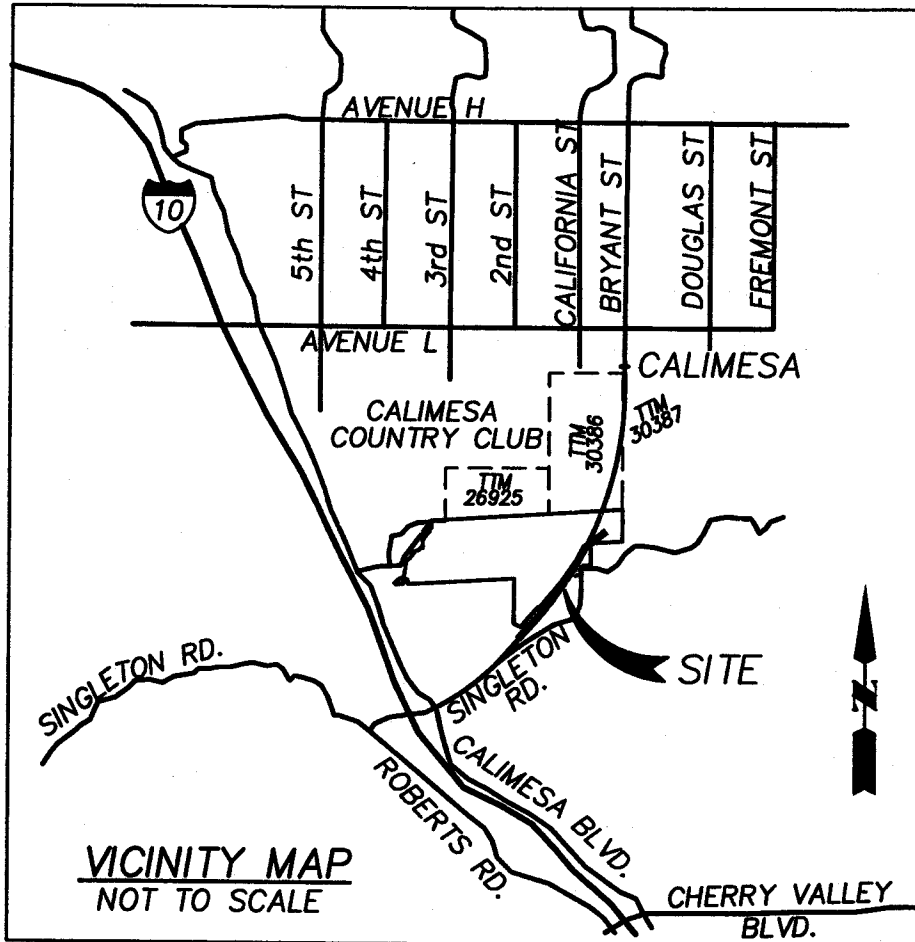


EXHIBIT A
COOPERATIVE AGREEMENT
CALIMESA - SINGLETON ROAD STORM DRAIN
CALIMESA - SINGLETON CANYON DEBRIS BASIN

5-0-00162
 5-0-00161
 TRACT 26811

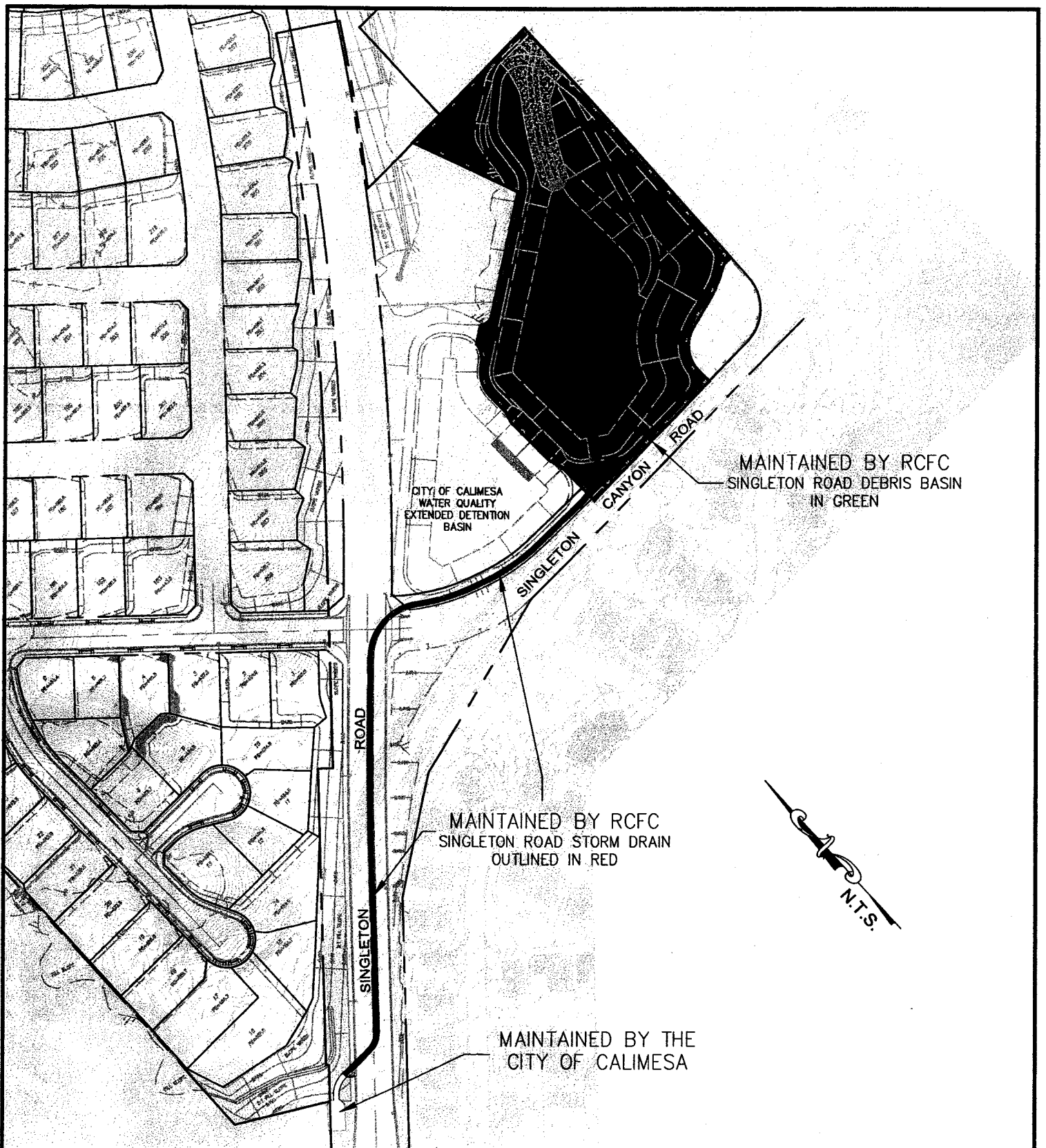


EXHIBIT A
COOPERATIVE AGREEMENT
CALIMESA - SINGLETON ROAD STORM DRAIN
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5-0-00162
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